

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America

v.

RAFAEL MONTALVO

Case No. 4:20-MJ-1202

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of March 2018 to present in the county of Craven in the
Eastern District of North Carolina, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. Section 371	conspiracy
18 U.S.C. Section 641	theft of government property
18 U.S.C. Section 2314	interstate shipment of stolen property

This criminal complaint is based on these facts:

See Affidavit, attached

☐ Continued on the attached sheet.

On this day, SA Peter Salomon
 appeared before me via reliable electronic means,
 was placed under oath, and attested to the
 contents of this Complaint.

Date: 9/15/2020

City and state: Greenville, NC


Complainant's signature

Peter Salomon, SA NCIS

Printed name and title


Judge's signature

KIMBERLY A. SWANK, U.S. Magistrate Judge

Printed name and title



AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT AGAINST
RAFAEL MONTALVO

1. I, Peter Salomon, your Affiant, being duly sworn, states I am a Special Agent with the United States Naval Criminal Investigative Service (NCIS), am duly appointed according to law and acting as such.

INTRODUCTION AND AGENT BACKGROUND

2. I have been a Special Agent with NCIS since January 2019, and am currently assigned to Resident Agency Cherry Point, NC. I was previously retained as a contractor by the United States Office of Personnel Management from 2016-2018 as an Investigator. I graduated from Mount St. Mary's University with a Bachelor's of Science in Business. I am a graduate of the Criminal Investigator Training Program (CITP) and the NCIS Special Agent Basic Training Program located at the Federal Law Enforcement Training Center in Glynco, GA. Since graduation from CITP, I have worked a variety of criminal investigations. Through training and experience, I have become familiar with methods and schemes employed by government property dealers to obtain and distribute stolen government property. I have received organized and on-the-job training in multiple disciplines and investigative techniques utilized during criminal investigations. As part of the affiant's daily duties as a NCIS Special Agent, I investigate violations of the Uniform Code of Military Justice and Federal Crimes, including violations of Title 18, United States Code, Sections 371, 641 and 2314.

STATUTORY AND REGULATORY BACKGROUND

3. Title 18, United States Code, Section 371 provides that it is a crime for "two or more persons [to] conspire either to commit any offense against the United States, or to defraud

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the United States, or any agency thereof in any manner or for any purpose, and [when] one or more of such persons do any act to effect the object of the conspiracy.” 18 U.S.C. § 371.

4. Title 18, United States Code, Section 641 provides that:

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—

has violated committed a crime in violation of that statute. 18 U.S.C. § 641.

5. Title 18, United States Code, Section 2314 provides that “Whoever transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of \$5,000 or more, knowing the same to have been stolen, converted or taken by fraud” has violated the law.

STATEMENT OF FACTS

6. The facts noted below in this affidavit are derived from the following sources: my own conversations with Witnesses A, B, C, and D, MALS-14 Command, and MALS-11 Command pertaining to the purchase and sale of government property; my own review of documentation provided by FedEx, AT&T, Verizon Wireless, Wells Fargo, Yahoo, Inc, pertaining to the purchase and sale of stolen government property; iMessage and text messages; photographs; search warrant



results; and independent investigation by the investigative team including, but not limited to, a review of records available to law enforcement.

7. Since this affidavit is being submitted only for the limited purpose of securing the issuance of an arrest warrant, I have not included each and every fact known to the investigative team concerning this investigation. Rather, I have set forth only those facts that are believed to be necessary to establish probable cause in support of a criminal complaint charging Rafael Montalvo with the violation of 18 U.S.C. § 371, 641 and 2314.

PROBABLE CAUSE

8. On 07Oct19, NCIS Resident Agency Cherry Point, NC was notified regarding the theft of US Government property from Marine Aviation Logistics Squadron 14 (MALS-14), which has as a primary responsibility to service aircraft engines and aircraft components. The item reported stolen was a signal generator with an estimated monetary value of approximately \$70,015 USD. The missing signal generator was a Keysight E8257D with PN: E8257D, SN: SG53400321. A signal generator is an electronic device which generates electronic signals and is used to design, manufacture, service, and repair electrical components. After the initial report of the missing signal generator, an inventory was conducted of the MALS-14 calibration lab, which revealed an oscilloscope, oscilloscope calibrator, and active heads were also missing and believed stolen from MALS-14. These additional items were valued at over \$50,000.

9. In January 2020, the missing oscilloscope calibrator was located on ebay.com through a cursory search. The oscilloscope calibrator was confirmed to be the item missing from MALS-14 by comparing the part number and serial number to the eBay listing photographs. Witness A, Civilian, Owner, Company A, was contacted pertaining to this oscilloscope calibrator listing. Witness A stated he purchased the item directly from Witness B, Civilian, Mountain View,

CA. Witness A stated he had been purchasing items from Witness B for several years and Witness B was one of his trusted wholesalers.

10. I made telephonic contact with Witness B pertaining to the origin of the oscilloscope calibrator he previously sold to Witness A. Witness B told me he purchased the oscilloscope calibrator from Rafael Montalvo. Database checks revealed Montalvo is currently an Illinois State Trooper and a current member of the Illinois Army National Guard. Montalvo was formerly a Marine stationed aboard Marine Corps Air Station (MCAS) Cherry Point, NC from 24Feb15 until 08Sep17. There, Montalvo worked in MALS-14 and had access to electronic test equipment and avionics equipment.

11. Witness B sent me various emails, which contained screenshots of iMessage threads between him and Montalvo. The threads contained negotiations via iMessage during 05Oct19 and 06Oct19 for the sale of a signal generator, oscilloscope, oscilloscope calibrator, active heads, and various additional items. In the iMessage threads, Montalvo stated the items were in good condition and directly from a calibration lab. Montalvo used cell phone number 760-805-5387 to send iMessages to Witness B and Witness B used cell phone number 408-209-4242 in the above iMessage chain. Phone records confirmed the above phone numbers belonged to Montalvo and Witness B.

12. Witness B told me he received a FedEx box containing the items at his apartment address of 2250 Latham St Apt 49, Mountain View, CA 94040. Witness B had taken a photo of the label on the shipment box because he found it odd Montalvo's name was listed as the recipient, at Witness B's apartment address. Witness B provided a photo of the label, which revealed the sender as "Marcus Brown" with a phone number of 910-384-9008. Brown was identified as Cpl Marcus Brown, MALS-14, MCAS Cherry Point, NC. Brown has been stationed at MCAS Cherry

Point, NC from February 2017 to present. Brown and Montalvo were both stationed at MCAS Cherry Point, NC together from February 2017 until September 2017.

13. Montalvo and Brown both worked in the Marine Corps as Individual Material Readiness List (IMRL) Managers aboard MCAS Cherry Point, NC, within MALS-14. The IMRL Managers are responsible for inventory, calibration, and issuance of aviation support equipment, which is vital to daily aircraft maintenance and flight operations within the Marine Corps.

14. At the request of the investigation, MALS-14 conducted an in depth squadron inventory beyond just that previously done for the calibration lab. The inventory revealed over 200 additional missing items with a value of over \$3,000,000. Of these additional 200 items, MALS-14 was missing two Fluke 8508A Digital Multimeters with a total estimated value over \$26,000. IMessage threads between Witness B and Montalvo revealed Montalvo negotiated with Witness B to sell two 8508A's, but the thread did not confirm a sale.

15. Witness A stated he bought an oscilloscope, oscilloscope calibrator, and active heads in a single purchase from Witness B. The items were confirmed via part number and serial number to be the items missing from the MALS-14 Calibration Lab. Witness A provided he also bought two Fluke 8508A Digital Multimeter's from Witness B. One of the Fluke 8508A's purchased by Witness A from Witness B matched a part number and serial number missing from MALS-14. Witness A stated he did not have the serial number of the second Fluke 8508A because he had sold the item.

16. I received iMessage communications between Brown and Montalvo as a result of a Command Authorization for Search and Seizure (CASS) on Brown's MacBook laptop. On 06Oct19, Montalvo asked Brown if he wanted \$30,000. Brown discussed a Fluke 8508A and an RTE 1054. Montalvo told Brown to get the "Keysight" to make an additional \$9,000. On 06Oct19,

Brown told Montalvo he was at FedEx and Montalvo told Brown to ship the items to Rafael Montalvo at 2250 Latham St #49, Mountain View, CA 94040, which matched Witness B's address. Brown told Montalvo he knew "he" did not use the gear and had to be flipping it somewhere else. Brown went on to say he was okay with that, but he requested the sender get a piece of the money. On 01Dec19, Montalvo told Brown he would get \$5,000 for 542's Permaswedge. On 08Dec19, Brown told Montalvo instead of breaking the front lock of the calibration lab again he would break the back lock "this time". On 19Dec19, Montalvo told Brown he would get \$2250 for a composite repair kit, \$5,000 for a Permaswedge, and \$1200 for a "computer". On 22Dec19, Montalvo gave Brown 9803 W Blanco bend Dr, Cypress, TX 77433 for item shipping. Montalvo told Brown he only got \$3,000 when he grabbed a composite repair kit in 2017, but it was in "new new" condition. Montalvo went on to tell Brown he only got \$3,000 when he was "hustling that shit". On 23Dec19, Montalvo told Brown to ship the composite repair kit to 2250 Latham St #49, Mountain View, CA 94040 and the small unit to 9803 W Blanco bend Dr, Cypress, TX 77433. On 11Jan20, Brown sent Montalvo photographs of the composite repair kit along with a FedEx receipt. On 13Jan20, Montalvo told Brown he did not understand why it was so difficult for Brown to get more items. Brown "LMAO, I broke into the cal lab" and that they were tightening down. On 18Jan20, Brown told Montalvo he would hit him up when he was about to get out of the Marine Corps about another calibration lab run. Montalvo told Brown he was making 100% profit on the items and his "uncle" was investing in the items Brown was "acquiring".

17. Witness C, Owner, Company C, Houston TX, was identified as having made approximately 25 purchases totaling over \$60,000 from Montalvo. Witness C was tied to 9803 W Blanco bend Dr, Cypress, TX 77433, which was an address Montalvo and Brown identified

various shipments being sent to. Pursuant to a search warrant for Witness C's Yahoo email account, I identified on 01Oct17, Montalvo forwarded Witness C and email from PayPal showing his account had been "limited" due to his account activity or latest transactions. On 03Oct17, Witness C sent Montalvo an email with a pdf attachment titled "heatcon.pdf". The pdf showed an invoice number 1633, dated 24Sep17 for two Heatcon HCS9200N Repair System units for a total cost of \$9,000. The invoice showed Attn: Rafael Montalvo from Jimmy McLaren at 430 Allister Drive, Raleigh, NC 27609. The investigative team conducted database checks for Jimmy McLaren at the aforementioned address and no responsive records were located. On 06Feb18, Montalvo emailed Witness C a copy of calibration paperwork for a Heatcon HCS9200N Composite Repair Kit with SN: 02175288. In Witness C's email, I also identified that on 14Oct19, Montalvo offered to sell Witness C a Keysight E8257D signal generator PN: E8257D, SN: SG53400321. Montalvo sent two photographs of the signal generator to Witness C from rafaelmontalvo@yahoo.com. The labels in the photographs clearly identified the signal generator as a Keysight E8257D signal generator PN: E8257D, SN: SG53400321, which matched the original missing signal generator from the MALS-14 Calibration Lab.

18. I made contact with the President of Heatcon Composite Systems (HCS), Seattle WA, and inquired about the service history on PN: HCS9200N-02 SN: 02102287, which was reported as a missing item from MALS-14, MCAS Cherry Point, NC. According to the President of Heatcon, HCS received an accessory case bearing SN: 02102287 from Company C when they purchased SN: 02175288. Since the serial number on the unit and accessory case did not match, HCS returned the accessory case for the correct accessory case bearing SN: 02175288. The President of Heatcon stated that in early May, another company named "AvionTEq" in Van Nuys, CA approached HCS about having a HCS9200N calibrated, which contained SN: 02102287.

provided original sales documentation pertaining to various original HCS sales of PN: HCS9200N pertaining to units in question. SN's: 02102282 and 02102287 were sold through distribution by Universal Technical Resource Services and drop shipped to Naval Warfare Center in Lakehurst, NJ on 30Nov10 via packing slip number 8343. SN's 02175287 and 02175288 were sold directly to the military through Contract Number SPRPA1-16-C-007Z. SN's 02175287 and 02175288 were shipped directly to MCAS Cherry Point, NC on 31Aug17 via packing slip number 37846. SN's 02175287 and 02175288 were shipped along with multiple additional Heatcon Composite Repair Kit units. The President of Heatcon provided a copy of packing slip 8343, 37846 and the associated customer shipment trackers, which verified the above information. I reviewed Marine Corps records pertaining to inventoried Heatcon SN's and discovered units from the same Heatcon shipment, which contained SN: 02175288, were inventoried as received, but SN: 02175288 was never put into inventory.

19. After I interviewed Witness C, I obtained verbal and written permission from Witness C for his prior message content with Montalvo from Witness C's cell phone. Review of the content revealed on 01Oct17, Witness C messaged Montalvo about Montalvo's PayPal account being limited they discussed using excel to make a receipt. Witness C wanted to see Montalvo's "to-do list" on his PayPal account and offered to make receipts showing Montalvo purchased an item. On 07Oct17, Witness C asked Montalvo if his PayPal account was opened back up yet. On 09Oct17, Witness C stated he would put items for sale, see what they would sell for and split the profits on a percentage basis with Montalvo. On 13Oct17, Witness C expressed concern to Montalvo over a Heatcon Composite Repair Kit because it was "weird" the item was built in July 2017 and went up for sale. Witness C asked Montalvo if he knew the history on the unit. On 12Feb18, Montalvo sent a photograph of a Metcal sticker, SN: 02175288, matching the SN of the

Heatcon Composite Repair Kit shipped directly to MCAS Cherry Point, NC, which never made it into military inventory.

20. During an internet canvass, Witness D, Owner, Company D, Austin, TX was identified as a seller of used military avionics equipment. I made contact with Witness D, and he informed me he had previously bought items from Montalvo, whom he met through eBay. Witness D stated he had purchased approximately 30-45 items from Montalvo over the past few years. Witness D provided me with screenshots of text messages, photos, and emails of negotiations, offers and invoices for various purchases dating back to 2016. Montalvo stated he was emailing Witness D about transactions (rather than texting) because he did not have consistent access to his phone while in police training. Montalvo used various email accounts for correspondence with Witness D. Photos provided by Montalvo to Witness D in iMessage threads revealed various shipping labels from both UPS and FedEx. One UPS receipt showed the sender as Montalvo at 27 Pletcher Dr, Yorkville, IL 60560. Montalvo used the phone number 760-805-5387 to send iMessages to Witness D.

21. Witness D confirmed he purchased a Swaged Terminal Pull Tester Kit PN: AT520CTK, SN: C8172 from Montalvo. The Swaged Terminal Pull Tester Kit was confirmed by part number and serial number to be an asset missing from MALS-11, MCAS Miramar, CA. MALS-11 is part of 3D Marine Aircraft Wing, on the west coast of the United States. Other items purchased by Witness D from Montalvo correlate via transaction timeframe, purchase amount and item type to additional missing MALS-14 property. MALS-14 and MALS-11 conduct the same operations but for different Marine Aircraft Wings, and both MALS-11 and MALS-14 use similar parts and test equipment that have been confirmed missing.

22. Review of emails provided by Witness D revealed on 02Jun16, Witness D received a PayPal invoice from Rafael Montalvo for \$4,000 from the email account djphhear2015@yahoo.com. On 07Jun16, Witness D received a PayPal invoice from Rafael Montalvo for \$4,300 from the email account djphhear2015@yahoo.com. On 26May19, Witness D received UPS shipment details from Rafael Montalvo with the seller email address showing as rmontalvo0001@yahoo.com. On 11Aug19, Witness D received a PayPal invoice from Rafael Montalvo for \$700 from an unknown email account. On 04Jul17, Witness D received a money request from Rafael Montalvo for \$500 from an unknown email account. On 20Jul17, Witness D received a PayPal invoice from Rafael Montalvo for \$1,400 from an unknown email account. On 21Aug19, Montalvo, using the email account rafaelmontalvo@yahoo.com, emailed Witness D and stated he had a Permaswage en route to his house and he was selling it for \$12,000. Per documentation provided by Wells Fargo, Montalvo's mailing address in August of 2019 was 27 Pletcher Dr, Yorkville, IL 60560.

23. FedEx records revealed Montalvo sent Witness D seven shipments using 27 Pletcher Dr, Yorkville, IL 60560 as the return address. Montalvo sent Witness C three shipments using 27 Pletcher Dr, Yorkville, IL 60560 as the return address. The shipments were sent between November 2018 and August 2019. Montalvo also received various shipments from Witness C and a co-subject at 27 Pletcher Dr, Yorkville, IL 60560 from July 2018 until August 2019.

24. Based on the above information, it is believed Montalvo has stolen and conspired with various individuals to steal, ship and to sell government property belonging to the United States military. It is believed in performing the above actions, Montalvo has committed violations of Title 18, United States Code, Sections 371, 641 and 2314. Items have been recovered which originated from MALS-11 and MALS-14, which are Marine Corps Air Stations on opposite sides


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of the United States. The stolen items were sold to various companies/individuals at wholesale prices by Montalvo. The various companies/individuals then re-sell the items on the open market to include various websites such as eBay.

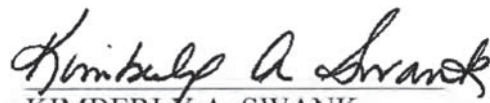
CONCLUSION

Based on my knowledge, training and experience, and the facts set forth in this affidavit, I respectfully submit that there is probable cause to believe Rafael Montalvo committed violations of Title 18, United States Code, Sections 371, 641 and 2314.

Respectfully submitted,


Peter Salomon
Special Agent
NCIS

On this day, the 15th day of September, 2020, the above-named agent appeared before me via electronic means (telephone) and attested to the contents of this affidavit.


KIMBERLY A. SWANK
United States Magistrate Judge

